

Hon. Thomas S. Zilly

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

CV 00-00813 #00000070

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TOM O'BRIEN and GUARDIANSHIP
SERVICES OF SEATTLE, Guardian ad Litem for
DANIEL L. TOPHAM, DDS, an incapacitated
person; and CYNTHIA PAULEY-TOPHAM,
DDS, individually, and as wife of Daniel L.
Topham, and on behalf of their marital
community;

Plaintiffs,

v.

BAYER CORPORATION, a foreign corporation,
SURVIVAL TECHNOLOGY, INC., a foreign
corporation; MERIDIAN MEDICAL
TECHNOLOGIES, INC., a foreign corporation;
EM INDUSTRIES, INC., a foreign corporation;
CENTER LABORATORIES, a Division of EM
INDUSTRIES, INC., a foreign corporation,

Defendants.

NO. C00-813-C

MEMORANDUM IN SUPPORT OF
DEFENDANT BAYER CORPORATION'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT TO DISMISS PLAINTIFFS'
STRICT LIABILITY AND CONSUMER
PROTECTION ACT CLAIMS AGAINST
BAYER CORPORATION

[FILED UNDER SEAL]

I. INTRODUCTION AND RELIEF REQUESTED

The case at bar is the sequel to a lawsuit brought by plaintiffs in 1998 for damages arising out of
the same incident On July 31, 1997, plaintiff Daniel L. Topham, D D.S., allegedly sustained an allergic

MEMORANDUM IN SUPPORT OF DEFENDANT BAYER
CORPORATION'S MOTION FOR PARTIAL SUMMARY JUDGMENT
TO DISMISS PLAINTIFFS' STRICT LIABILITY AND CONSUMER
PROTECTION ACT CLAIMS AGAINST BAYER CORPORATION- 1
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